

Message Text

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ACTION AF-06

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E.O. 11652: N/A

TAGS: EINV, KE

SUBJECT: SAUL CLAIM

1. IN ZEALOUS EFFORT FOR SATISFACTORY SOLUTION TO SAUL CASE, I HAVE HAMMERED HOME TO PRESIDENT'S OFFICE MY GRAVEST CONCERN THAT FAILURE TO OFFER COMPENSATION TO SAUL MIGHT WELL AFFECT PRESENT EXCELLENT BILATERAL RELATIONS BETWEEN KENYA AND U.S. IN CONVERSATIONS WITH BOTH MINISTER OF STATE (IN PRESIDENT'S OFFICE) KOINANGE AND PRESIDENT'S PERMANENT SECRETARY KARITHII I STATED OUTRIGHT THAT, ALTHOUGH I, TOO, RECOGNIZED THE SENSITIVE NATURE OF THIS CASE, THAT -- IF NO ONE (OF THE MINISTERS TO WHOM I HAVE SPOKEN) WOULD BRING THIS MATTER TO PRESIDENT KENYATTA, I WOULD. RESULT WAS THAT I HAD A FACE-TO-FACE HEAD-ON TALK WITH KARITHII FEBRUARY 16 AFTER HE HAD CONVENED TOP-LEVEL GOVERNMENT MEETING (WHICH IS WHAT I HAVE BEEN TRYING TO GET GOK TO DO FOR MONTHS), RESULTING IN INSTRUCTIONS TO THE ATTORNEY GENERAL. TWO SOLICITORS OF AG'S OFFICE HAVE BEEN "PUT ON CASE" WITH ORDERS TO MAKE COMPENSATION PROPOSAL TO SAUL THROUGH HIS NAIROBI LAWYERS, KAPLAN AND STRATTON. QUESTION, KARITHII EMPHASIZED, WAS NOT RPT NOT WHETHER COMPENSATION SHOULD BE PAID, BUT HOW MUCH. INACTION TO DATE HAS BEEN CAUSED BY WHAT CAN BEST BE LABELLED "BUREAUCRATIC PROBLEMS;" HOWEVER, KARITHII ASSURED ME, MATTER WAS NOW BEING ACTIVELY, PERSISTENTLY PURSUED. GOK, IMPLY PUT, DOES NOT KNOW WHAT IS FAIR COMPENSATION OFFER. THEY NEED FURTHER ADVICE OF GOK-SPONSORED

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GEOLOGIST TO ASSESS VALUE OF MINE. THEY WILL DO THIS

IMMEDIATELY. I PRESSED KARITHII FOR A TIME LIMIT, SUGGESTING TWO MONTHS; HE ASKED FOR THREE. I TOLD HIM I WOULD CONVEY OUR CONVERSATION TO WASHINGTON, HOPING THE CIEP INTERAGENCY COORDINATING GROUP, APPRAISED OF THE SITUATION AS IT NOW STANDS, WOULD DELAY CONSIDERATION OF THE SAUL CASE AS EXPECTED FEBRUARY 20.

2. COMMENT: IT WOULD NOT BE IN BEST US-KENYAN INTERESTS FOR ME TO SPEAK DIRECTLY TO PRESIDENT KENYATTA REGARDING SAUL CASE, ALTHOUGH I SUGGESTED I DO SO (AND HIS MINISTERS AND ADVISERS RECOGNIZE THIS). HOWEVER, IT IS ALSO NOT IN BEST US-KENYAN INTEREST FOR KENYAN COMPENSATION NOT TO BE OFFERED TO SAUL. I HAVE PRESSED, OVER THE MONTHS, AND MOST PARTICULARLY LAST FEW DAYS, THE MATTER IN DIRECTION I NOW CONSIDER MOST PROMISING TOWARD COMPENSATION OFFER. ANY CONSIDERATION BY CIEP OF SAUL CASE AT THIS TIME WOULD MOST ADVERSELY AFFECT OUR RELATIONS WITH KENYA (AND, INCIDENTALLY, SAUL'S CLAIM). IT IS QUITE INCOMPREHENSIBLE, AS IT IS, TO THOSE OFFICIALS (VICE PRESIDENT MOU, MINISTERS WAIYAKI, OLOITIPITIP, KOINANGE, AG NJONJO, AND PERMSECS INCLUDING KARITHII) WHOM I HAVE BADGERED, THAT THE U.S. WOULD PRESS SAUL CASE TO POINT IT WOULD AFFECT OUR BILATERAL RELATIONS. I PLACED THE ISSUE ON THE TECHNICALITIES OF LAW. I EMPHASIZED THAT MY ELEVATING THE ISSUE TO A CRISIS STAGE AT PRESENT WAS AN ATTEMPT TO SOLVE IN PRIVATE A PROBLEM WHICH SHOULD NOT BE ALLOWED TO GROW OR BECOME PUBLIC. MY REASONING WHILE ONLY HALF-UNDERSTOOD WAS ACCEPTED DUE TO MY PERSISTENCE. I HAVE CONFIDENCE THAT THE ISSUE IS ON ITS WAY TO A SOLUTION.

3. RECOMMENDATION: I URGENTLY AND STRONGLY REQUEST THE DEPARTMENT TAKE ACTION TO CONVINCE THE CIEP INTERAGENCY COORDINATING GROUP TO POSTPONE ANY CONSIDERATION OF SAUL CASE AT THEIR FEBRUARY 20 MEETING, POSTPONING UNTIL THEIR NEXT MEETING FOLLOWING THE THREE MONTH'S PERIOD ARRIVED AT IN MY DISCUSSION WITH KARITHII.

EXEMPT.
MARSHALL
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